



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,622	07/07/2000	David T. Meckenstock	B-67587 (014354/0003)	6467

33649 7590 04/27/2005

Mr. Christopher John Rourk
GODWIN GRUBER, LLP
1201 Elm Street, Renaissance Tower
DALLAS, TX 75270

EXAMINER

TRUONG, LECHI

ART UNIT	PAPER NUMBER
----------	--------------

2194

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/611,622

Applicant(s)

MECKENSTOCK ET AL.

Examiner

LeChi Truong

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04/12/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-4, 7-22 are presented for the examination. Claims 5, 6 are cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al (US. Patent 6,338, 149 B1) in view of Sandahl et al (US. Patent 6,098,098).

3. As to claim 1, Ciccone teaches the invention substantially as claimed including: the invention for programming point of sale devices (nodes 55, col. 7, line 10, in the banking system, col. 2, line 43), comprising:

a device programming system (system 2 having a monitoring node 22 and repository node 24, col. 3, lines 40 –48);

a communication interface (interface connectable to line 32 within system 2, fig. 1); and

wherein the plurality of devices includes devices having proprietary operating systems from two or more different manufacturers (col. 2, lines 28 – 37).

Ciccone does not teach the communication interface for receiving update requests from the plurality of devices. Specifically, the device programming system 2 initiates any update to

Art Unit: 2194

the nodes 55. Ciccone teaches a communication interface for sending update request to the devices.

4. In summary, Ciccone does not teach the initiation of the device update by the device itself. However, Sandahl teaches a device programming system for programming a plurality of devices (computer based equipment, col. 4, lines 10 – 16). Specifically, each device itself initiates the update request. The device programming system is coupled to an interface to receive the update request from the device (file transfer request, col. 8, lines 23 - 25, col. 6, line 47 - col. 7, line 6).

5. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Ciccone and Sandahl because they both teach a device programming system for programming a plurality of devices. Sandahl 's teaching of device initiated update request would increase the flexibility of Ciccone by allowing the devices themselves to have the opportunity to request update.

6. Claims 2, 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al (US. Patent 6,338, 149 B1) in view of Sandahl et al (US. Patent 6,098,098), as applied to claim 1 above, and further in view of Resende (6,643,626 B1).

7. As to **claim 2**, Ciccone and Sandahl do not teach a device update file. However, Resende teaches a device update file (the admin/marketing, update the inventory of a sales point, col 5, ln 53-67 to col 6, ln 1-10/ Fig. 1).

Art Unit: 2194

8. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Ciccone, Sandahl and Resende because Resende's update file would improve the flexibility of Ciccone and Sandahl's systems by allowing a control center to monitor various sale point systems to reevaluate market strategy such as improving sales, improving profit margins, etc.

9. As to claim 7, Resende teaches a device setup system operable (the admin/marketing, update the inventory of a sales point, col 5, ln 53-67 to col 6, ln 1-10/ Fig. 1), a plurality of point of sale devices (the various sales points, col 5, ln 1-25).

10. As to claim 8, Resende teaches provide configuration data updates (the modification of merchandise inventories / update the inventory of sales point, col 5, ln 54-67 to col 6, ln 1-5).

11. As to claim 9, Resende teaches a device analytical system operable performs troubleshooting (inventory control, security, and marketing, col 4, ln 56-67/ col 6, ln 1-35).

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al (US. Patent 6,338, 149 B1) in view of Sandahl et al (US. Patent 6,098,098), as applied to claim 1 above, and further AN (IEE OPOS (USPOS)* Compatible Pole Display Software).

13. As to claim 3, Ciccone and Sandahl do not teach a class of point sale devices. However, AN teaches a class of point sale devices (a device class, section device class, page 1).

14. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Ciccone, Sandahl and AN because AN's class device

Art Unit: 2194

would provides an open device driver architecture that allow point of same hardware to easily integrated into POS systems.

15. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al (US. Patent 6,338, 149 B1) in view of Sandahl et al (US. Patent 6,098,098), as applied to claim 1 above, and further in view of Rogge et al (US. 5,500,890).

16. As to claim 4, Ciccone and Sandahl do not teach a polling system operable to poll each point of sale. However, Rogge teaches a polling system operable to poll each point of sale (the controller 24.... indicated polling, col 12, ln 15-51).

17. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Ciccone, Sandahl and Rogge because Rogge's polling would transfers data over the transaction approval network.

Claim Rejections - 35 USC § 102

18. Claims 10, 14, 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ciccone Jr. et al (US. Patent 6,338,149 B1).

19. As to claim 10, Ciccone teaches the invention, comprising: receiving a programming request (request for diagnoses and corrects defects on a specific node 1 10, col. 1, lines 27 – 32);
determining which of two or more proprietary operating systems is used by the point of sale device (col. 12, line 6, col. 2, lines 27 -37, col. 5, lines 15 – 65); and

transmitting the programming request to the point of sale device based on the proprietary operating system used by the point of sale device (col. 12, lines 22 – 40).

20. As to claim 14, Ciccone teaches two or more operation systems (col 2, ln 30-35)

21. As to claim 17, Ciccone teaches storing a file (template 56, col. 7, lines 8 – 10) for each point of sales device (node 55, col. 7, line 10, in the banking system, col. 2, line 433), each file containing device operating commands (col. 5, lines 15 – 37);

retrieving one of the files (template 56) in response to a programming request (signal indicating node configuration phase, col. 7, lane 5) for a corresponding devices (col. 7, lines 4 – 11); and transmitting the file to the corresponding devices (col. 7, lines 9 – 10).

Claim Rejections - 35 USC § 103

22. Claims 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al (US. Patent 6,338, 149 B1) in view of Sandahl et al (US. Patent 6,098,098).

23. As to claim 11, Ciccone does not teach the communication interface for receiving update requests from the plurality of devices. Specifically, the device programming system 2 initiates any update to the nodes 55. Ciccone teaches a communication interface for sending update request to the devices.

24. In summary, Ciccone does not teach the initiation of the device update by the device itself. However, Sandahl et al teach a device programming system for programming a plurality of devices (computer based equipment, col. 4, lines 10 – 16). Specifically, each device itself initiates the update request. The device programming system is coupled to an interface to receive

Art Unit: 2194

the update request from the device (file transfer request, col. 8, lines 23 - 25, col. 6, line 47 - col. 7, line 6).

25. It would have been obvious to one of ordinary skill in the art the time the invention was made to combine the teachings of Ciccone and Sandahl et al because they both teach a device programming system for programming a plurality of devices. Sandahl 's teaching of device initiated update request would increase the flexibility of Ciccone by allowing the devices themselves to have the opportunity to request update.

As to claim 12, it is an apparatus claim of claim 11; therefore, it is rejected for the same reason as claim 11 above.

25. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al (US. Patent 6,338, 149 B1) in view of Rogge et al (US. 5,500,890).

26. **As to claim 13**, Ciccone does not teach a polling system operable to poll each point of sale. However, Rogge teaches a polling system operable to poll each point of sale (the controller 24.... indicated polling, col 12, ln 15-51).

27. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Ciccone and Rogge because Rogge's polling would transfers data over the transaction approval network.

28. Claims **15, 16, 18, 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al (US. Patent 6,338, 149 B1) further in view of Resende (6,643,626 B1).

29. **As to claim 15**, Ciccone does not teach a public switched telephone network. However, Resende teaches a public switched telephone network (a switching assembly 120, col 6, ln 36-50/ Fig. 3).

30. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Ciccone and Resende because Resende's update file would improve the flexibility of Ciccone system by allowing a control center to monitor various sale point systems to reevaluate market strategy such as improving sales, improving profit margins, etc.

31. **As to claim 16**, Resende teaches the Internet, a local network, a wide area network and a wireless network (an network 22, such as an Internet, PSTN, Intranet or other suitable communication network, col 5, ln 1-12).

32. **As to claim 18**, Ciccone does not teach one class of rules, applying the class of rules to the two or more classes of files. However, Resende teaches one class of rules, applying the class of rules to the two or more classes of files (the control center 24 provide several functions, such as inventory control, security and marketing with various functions preferably being facilitated by various departments, col 4, ln 56-67/ the control center for reevaluating market strategy, col 5, ln 52-67).

33. It would have been obvious to one of the ordinary skill in the art at the time invention was made to combine the teaching of Ciccone and Resende because Resende's "the control center 24 provide several functions, such as inventory control, security and marketing with various functions preferably being facilitated by various departments, col 4, ln 56-67/ the control

Art Unit: 2194

center for reevaluating market strategy” would improve the implementing of business methods and devices.

34. As to claim 22, Resende teaches a change in a business entity (the modification of merchandise inventories, col 5, ln 50-67), determining (predetermined, col 6, ln 1-10), modify of the template (the modification o merchandise inventories contained with each of the various sales points, col 6, ln 1-10), a telephone number, a list of allowable cards, a merchant number, an address, program modules, disabling program, enabling loyalty, disabling loyalty cart, enabling frequent buyer (sales, profit margins, etc, col 5, ln 53-67/ a telephone, a cordless telephone, a backup power supply, a notebook computer....., col 6, ln 36-67).

35. Claims 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al (US. Patent 6,338, 149 B1) in view of Coutts et al (US. Patent, 6,311,165 B1).

36. As to claim 19, Ciccone does not teach a point of sale device identifier, locating a data file associated with the point of sale device identifier. However, Scotts teach a point of sale device identifier (the peripheral’s Mac address and a special “broadcast address”(col 22, ln 9-67), locating a data file associated with the point of sale device identifier (using this information the peripheral 364 can access the server 334 and download an operating system, col 22, ln 9-67).

26. It would have been obvious to one of the ordinary skill in the art at the time invention was made to combine the teaching of Ciccone and Coutts because Coutts’s a point of sale device identifier, locating a data file associated with the point of sale device identifier would improve the efficiency of Ciccone’s system by idetifying the software device for the server.

Art Unit: 2194

37. As to claim 20, Scotts teaches receiving request from the point of sale device (a peripheral 364 being operate to transmit information to the server 334, col 21, ln 21-50).

38. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al (US. Patent 6,338, 149 B1) Resende (6,643,626 B1) in view of APA (Addmitted Prior Art).

39. As to claim 21, Resende teaches imposing configuration constraints on the template based the point of sale device (transaction reports for each of the various sales points 12 may be utilized by the control center for reevaluating market, col 5, ln 50-67/ col 6, ln 1-7), select the template (reevaluating market strategy, such as for improving sales..., col 5, ln 50-67/ col 6, ln 15-19).

40. Resende do not explicit teach credit card. However, APA teaches credit card (credit card, page 2, ln 5-8).

41. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Resende and APA because APA's credit card would provides a payment processing and the financial institution.

42. **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (703) 305 5312. The examiner can normally be reached on 8 - 5.

Art Unit: 2194

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 703-305-9678. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

LeChi Truong

April 21, 2005


SUE LAO
PRIMARY EXAMINER